

Application No.: 10/727,287

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REMARKS

This application has been reviewed in light of the Office Action dated April 4, 2006. Claims 1-24 are pending in this application. The specification has been amended to correct a typographical error. Claim 21 has been amended, support for which is found in the originally filed specification at, for example, paragraphs [0043]-[0044]. No new matter or issues have been introduced. Claims 9-12, 14-15 and 17-18 have been withdrawn from consideration. In view of the comments herein, Applicant respectfully submits that all withdrawn claims are dependent on allowable independent claims and therefore requests withdrawal of the restriction requirement and rejoinder of the withdrawn claims pursuant to MPEP § 821.04(a) (Eighth Edition, Revision 3, August 2005, p. 800-63).

At the outset, Applicant notes with appreciation the time set aside by the Examiner to discuss the outstanding rejection of the claims in an interview on June 2, 2006. Those attending the telephonic interview included Examiner Ahmed, inventor Scott W. Sanders, and the undersigned. The substance of the interview included a discussion of the pending independent claims in view of the applied reference, USPN 5,562,618 to Cai et al., which will be set forth more completely below. Briefly, it was noted by Applicant that, contrary to the Examiner's position, Cai et al. does not show or describe at least a marking on a port stem in view of the claimed recitation of the port stem.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 8, 13, 16 and 19-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 5,562,618 to Cai et al. Applicant respectfully traverses this rejection.

Independent **claim 1** recites, *inter alia*, "a port stem extending from said housing, wherein said port stem has an inner lumen forming a channel in fluid communication with said fluid chamber; and a marking for providing guidance to a user for placement of a catheter over said port stem, wherein said marking is located on said port stem between a distal end of said port stem and a proximal end of said port stem" (emphasis added).

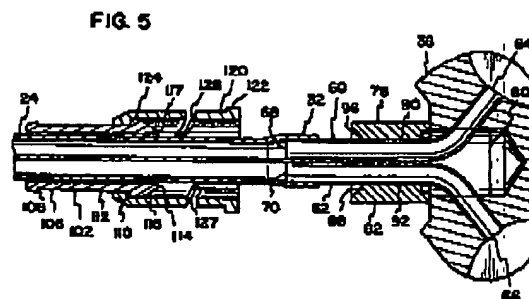
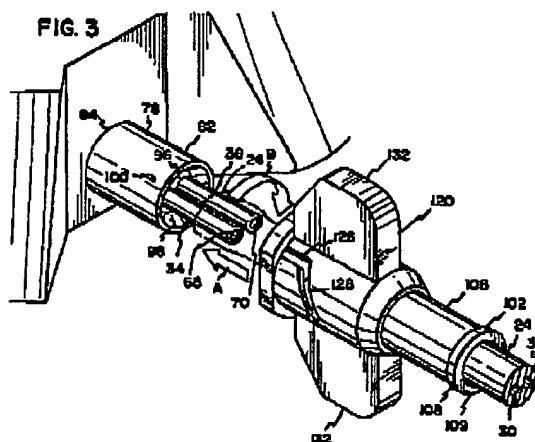
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The Examiner states in the Final Office Action, p. 2, that Cai et al. discloses "a marking (100) for providing guidance to a user for placement of a catheter over the port stem (84), wherein the marking (100) is located on the port stem (84) and a proximal end of the port stem, see figures 1, 3 and 8; and wherein the marking (100) is positioned on the port stem (84) such that when the catheter (24) is aligned with the marking [it] is compressed by the locking sleeve (102), the proximal end of the catheter (24) does not abut a housing (22) of the access port (20), (col. 8 line 55 and col. 6 line 60)."



Referring to FIGS. 3 and 5 of Cai et al., the specification of Cai et al. discusses the features referenced by the Examiner as follows:

- The catheter 24 is placed in fluid communication with port 22 by sliding a proximal end 32 of the catheter 24 over outlet tubes 34, 36. (FIG. 5).
- The mounting of outlet tubes 34, 36 to housing 38 is facilitated by insert 78. The insert 78 is slid around outlet tubes 34, 36 after the tubes have been properly inserted into the positions shown into housing 38. (col. 6, lines 13-25, FIG. 3).
- Insert 78 has a first end 80 that fits into a central bore 58 and a second end 82 that protrudes from housing 38. The second end 82 meets the first end at a shoulder 84 that engages an edge of the housing 38. (col. 6, lines 25-31, FIG. 3). Insert

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78 includes "two bayonets or pins 100 on opposite sides of a cylindrical outer surface 85." (col. 6, lines 47-49, FIG. 3).

- Lock ring 120 includes two slots 126, 127 which cooperate with bayonets 100 of insert 78 to mount lock ring 120 on insert 78 (col. 7, lines 51-53, FIG. 3)

In the interview, the Examiner stated that his position was that: 1) insert 78, on which pin 100 is located, is equivalent to the claimed port stem, and 2) the lock ring 120 is integral to the catheter 24 and therefore satisfied the claimed recitation of a catheter. Therefore, the Examiner found that all limitations of claim 1 were shown by Cai et al. In rebuttal, Applicant pointed out that insert 78 could not be a port stem as claimed, at least because the recited port stem required an inner lumen forming a channel in fluid communication with said fluid chamber, which is not a feature of the insert 78. Applicant also noted that the lock ring 120 could not meet the claimed recitation of a catheter, because the catheter 24 of Cai et al. is independent from lock ring 120, described as being independently threaded through lock ring 120 and sleeve 102 (col. 8, lines 55-61).

With respect to insert 78, it is clear in view of FIG. 5 and the accompanying description in the specification of Cai et al., that it does not include a channel in fluid communication with the fluid chamber, which is shown as reference numerals 50, 52 in FIG. 8 and described as being connected to outlet tubes 34, 36 (col. 6:2-5). Thus, for at least that reason, insert 78 can not fairly be representative of a port stem as claimed. In the interview, Applicant concluded that if insert 78 is not a port stem, then pin 100 could not be a marking located on a port stem as claimed. Moreover, Applicant noted that of the features shown and described in Cai et al., the claimed port stem was most closely approximated by outlet tubes 34, 36. With respect to the outlet tubes 34, 36, Applicant pointed out that there was no showing or description in Cai et al. of a marking located thereon. Applicant cited to the following passage in the Cai et al. specification in order to illustrate this point (emphasis added):

A preferred use of connector 26 with catheter 24 and port 22 positions by hand the end 32 of catheter 24 over the ends 68, 70 of outlet tubes 34, 36 as shown in FIG. 5 and in dashed lines in FIG. 3. It is preferred that catheter 24 not be pushed by hand

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past the general position shown, unless provision is made for the additional bunched up catheter 24 that would result if catheter 24 were initially pushed by hand past the position shown in FIG. 3. If catheter 24 is pushed too far, it may be difficult to form the appropriate bunched up end 32a of the catheter 24, unless provision is made for the excess material. In the embodiment shown, about 1 to 4 millimeters of catheter 24 positioned on outlet tubes 34, 36 is adequate. The convex shape of end 114 of sleeve 102 allows for some variation in the amount of bunched up catheter 24 in connector 26. Catheter 24 can be pushed by hand all the way until the end 30 engages surface 96. In that case, if not already present, room must be provided to accommodate the additional bunched up catheter 24 once sleeve 102 is drawn by lock ring 120 toward insert 78. (col. 8, lines 36-54).

The underlined portions demonstrate that there were many contemplated possibilities for the location of the catheter on the outlet tubes in Cai et al. Such disclosure is directly counter to a marking provided on the outlet tubes to provide guidance to a user. More importantly, there is no showing or description in Cai et al. of such a marking. The instant application, differently, recites in claim 1, "a marking for providing guidance to a user for placement of a catheter over said port stem, wherein said marking is located on said port stem." Hence, Applicant respectfully submits that Cai et al. does not anticipate claim 1 because Cai et al. does not show or describe each and every element as set forth therein. (MPEP § 2131, Eighth Edition, Revision 3, August 2005, p. 2100-76). Therefore, in view of the above, claim 1 is patentable in view of Cai et al. and claim 8 is also patentable because it depends from claim 1 and also recites features not shown or described in Cai et al.

With respect to independent claims 13, 16 and 21, each include limitations similar to those of claim 1 discussed above, which are not shown or described by Cai et al. Specifically, claim 13 recites, *inter alia*, "an outlet stem extending from a housing of said access port, configured at a distal end thereof to receive the proximal end of said catheter, said stem enclosing a stem channel extending between a proximal end thereof and said distal end, wherein said stem channel is in fluid communication with a cavity in said housing" and "a marking positioned on an outer surface of said outlet stem" (emphasis added). Claim 16 recites, *inter alia*, "said access port

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comprising an outlet stem extending from a housing of said access port, configured at a distal end thereof to receive the proximal end of said catheter, said stem enclosing a stem channel extending between a proximal end thereof and said distal end, wherein said stem channel is in fluid communication with a cavity in said housing” and “providing a marking on said outlet stem” (emphasis added). **Claim 21**, as amended recites, *inter alia*, “inserting a port stem of said access port into a proximal end of the catheter, the port stem including a lumen in fluid communication with a fluid-receiving section of the access port” and “adjusting the position of said catheter on said port stem such that the proximal end of said catheter is aligned with a marking on the port stem, wherein said marking is positioned on the port stem” (emphasis added).

Hence, Applicant respectfully submits that Cai et al. does not anticipate claims 13, 16 or 21 because Cai et al. does not show or describe each and every element as set forth therein. Therefore, in view of the above, claims 13, 16 and 21 are patentable in view of Cai et al. and claims 19-20 and 22-24 are also patentable because they depend from claims 16 and 21 and also recite features not shown or described in Cai et al.

Claim Rejections - 35 U.S.C. § 103

Claims 2-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cai et al. Applicant respectfully traverses this rejection.

In view of the above, Applicant respectfully submits that Cai et al. does not show or describe each and every feature of independent claim 1 and because the rejected claims are dependent on patentable independent claim 1, as discussed above, claims 2-7 are also patentable.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

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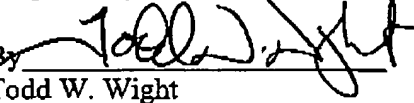
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In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 480062001800. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: June 5, 2006

Respectfully submitted,

By 

Todd W. Wight

Registration No.: 45,218

MORRISON & FOERSTER LLP

19900 MacArthur Boulevard

Irvine, California 92612-2445

(949) 251-7189

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